





# City of Loma Linda Official Report

Karen Gaio Hansberger, Mayor  
Floyd Petersen, Mayor pro tempore  
Robert Christman, Councilmember  
Stan Brauer, Councilmember  
Robert Ziprick, Councilmember

COUNCIL AGENDA: October 26, 2004

TO: City Council

VIA: Dennis R. Halloway, City Manager 

FROM: T. Jarb Thaipejr, Public Works Director/City Engineer 

SUBJECT: Council Bill #R-2004-51 - Initiating Annexation to Landscape Maintenance District No. 1 and scheduling a Public Hearing for Annexation to Landscape Maintenance District No. 1 (Southside of Newport Avenue, South of Barton Road, West of Bryn Mawr Avenue, Tract 16382, Richmond American Homes)

## RECOMMENDATION

It is recommended that City Council approve the following:

1. Adopt Council Bill No. R-2004-51 initiating Annexation 64 into the Landscape Maintenance District and scheduling a Public Hearing for Annexation to the Landscape Maintenance District.

## BACKGROUND

The City Council approved the Tentative Tract Map subject to Conditions of Approval. Annexation to the Landscape Maintenance District is one of the Conditions. The City has received a petition from the property owner to annex into the Landscape Maintenance District.

## ANALYSIS

The petition and ballot have been prepared for the property owner's approval of Annexation No. 64 into the Landscape Maintenance District. Further, an Engineer's Report has been prepared this Annexation, report attached.

## RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA, COUNTY OF SAN BERNARDINO, CALIFORNIA, INITIATING PROCEEDINGS FOR THE ANNEXATION OF TERRITORY TO THE LOMA LINDA LANDSCAPE MAINTENANCE DISTRICT NO. 1, AS ANNEXATION NO. 64, TRACT NO. 16382, DETERMINING THAT THESE PROCEEDINGS SHALL BE TAKEN PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND THE RIGHT TO VOTE ON TAXES ACT, PRELIMINARILY APPROVING THE ENGINEER'S REPORT, AND DECLARING THE CITY'S INTENTION TO ORDER THE ANNEXATION, AND OFFERING A TIME AND PLACE FOR HEARING OBJECTIONS THERETO

The City Council of the City of Loma Linda pursuant to the provisions of the Landscaping and Lighting Act of 1972, being Division 15 of the Streets and Highways Code of the State of California (the "Act"), and as provided by Article XIII D of the California Constitution, desires to initiate proceedings for the annexation of certain property, Tract No. 16382, (the "Annexation"), to the Loma Linda Landscape Maintenance District No. 1 (the "District") and for the levy and collection of annual assessment within the proposed Annexation for the fiscal year 2004/2005, for the purposes provided therefore in the Act; and

WHEREAS, the public interest and convenience require the extension of the construction and maintenance of improvements by the District to the proposed Annexation; and

WHEREAS, The general location and boundaries of the Annexation are shown on maps on file in the office of the City Clerk, are incorporated herein by reference, and open to public inspection; and

WHEREAS, the improvements to be installed, constructed or maintained within the proposed Annexation may include installation, construction or maintenance of any authorized improvements under the Act, including, but not limited to landscape and irrigation improvements and any facilities which are appurtenant to any of the aforementioned or which are necessary or convenient for the maintenance or servicing thereof; and

WHEREAS, Section 22608 of the Act limits the requirement for the resolutions, Engineer's Report, notices of hearing, and right of majority protest under the Act to the territory included within the annexation and waives these requirements with the written consent of all of the owners of property within the territory to be annexed; and

WHEREAS, Proposition 218, the Right to Vote On Taxes Act does hereby require that a notice of the proposed assessment along with a ballot shall be mailed to all owners of identified parcels within the Annexed Area, and that the agency shall conduct a public hearing not less than 45 days after the mailing of said notice.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Loma Linda as follows:

1. That the above recitals are true and correct.
2. That the City hereby proposes to annex to the Loma Linda Landscape Maintenance District No. 1, Tract 16382, as Annexation No. 64, generally located on Newport Road; 1,665 feet east of Mountain View Avenue; 300 feet west of Bryn Mawr Avenue, also known as Assessor Parcel Number; 0293-011-04, Legal description; portion of north ½ of the northeast ¼,

of the northwest  $\frac{1}{4}$ , of Section 31, Township 1 south, Range 3 west, San Bernardino Base and Meridian, and to levy annual assessments thereon to provide for the following work:

Installation, construction or maintenance of any authorized improvements under the Act, including, but not limited to landscape and irrigation improvements and any facilities which are appurtenant to any of the aforementioned or which are necessary or convenient for the maintenance or servicing thereof.

The distinctive designation for the proposed Annexation shall be Annexation No. 64 of the Loma Linda Landscape Maintenance District No. 1 when referred to separately and upon annexation will be included in the designation of the Loma Linda Landscape Maintenance District No. 1.

3. The City Council hereby designates MuniFinancial as the Engineer for the purposes of these proceedings and orders the Engineer to prepare and file with the City Clerk a written report in accordance with Article XIII D, Section 4 of the California Constitution and Article 4 (commencing with Section 22565) of Chapter 1 of the Act for that portion of the fiscal year 2004/2005 commencing JULY 1, 2004 and ending June 30, 2005. Such Report shall refer to the Annexation by its distinctive designation.

4. The Engineer has prepared and filed with the City Clerk of the City of Loma Linda and the City Clerk has presented to the City Council such report entitled "Engineer's Report, City of Loma Linda Landscape Maintenance Assessment District No. 1 Annexation No. 64" (the "Report") which pertains to the proposed Annexation.

5. That the Property Owner has provided the City Council of the City of Loma Linda a petition fully signed and notarized, granting the City the right to maintain and service the landscape improvements and gives consent to the establishment of an assessment for the proposed annexation of the property into the District in an amount reasonably determined by the City to cover all costs and expenses incurred for the continued maintenance, operation and servicing of the landscape improvements.

6. That the Property Owner, as provided in the petition, hereby waives all statutory notice periods per the Act.

7. The City Council hereby (1) finds that the public interest and convenience requires and (2) declares its intention to order the approval for the Annexation and to levy and collect assessments against the assessable lots and parcels of land within such Annexation for that portion of the fiscal year commencing July 1, 2004 and ending June 30, 2005 to pay the costs and expenses of the improvements described in Section 2. If the assessments proposed by this resolution are approved by the property owners pursuant to a mailed ballot election conducted in accordance with Article XIII D of the California Constitution, the City Council in subsequent fiscal years may thereafter impose the assessment at any rate or amount that is less than or equal to the amount authorized for fiscal year 2004/2005, increased each year based upon the Consumer Price Index, All Urban Consumers, for the Los Angeles, Orange, Riverside, County Area ("CPI"), as determined by the United States Department of Labor, or its successor without conducting another mailed ballot election. The Engineer shall compute the percentage of difference between the CPI for February of each year and the CPI for the previous February, and

shall then adjust the existing assessment by an amount not to exceed such percentage for the following fiscal year. Should the Bureau of Labor Statistics revise such index or discontinue the preparation of such index, the Engineer shall use the revised index or a comparable system as approved by the City Council for determining fluctuations in the cost of living.

8. That notice is hereby given that on the 9<sup>th</sup> day of November 2004 at the hour of 7:00 p.m., or as soon thereafter as possible, in the City Council Chamber at 25541 Barton Road, in the City of Loma Linda, the City will hold a public hearing to receive and tabulate all ballots with reference to the Annexed Area pursuant to the Right to Vote On Taxes Act.

9. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 26th day of October 2004 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

---

Karen Gaio Hansberger, Mayor

ATTEST:

---

Pamela Byrnes-O'Camb, City Clerk

**ENGINEER'S REPORT  
CITY OF LOMA LINDA**

**ANNEXATION NO. 64 TO  
LANDSCAPE MAINTENANCE  
DISTRICT NO. 1, TRACT NO. 16382**

**FISCAL YEAR 2004/2005**

CITY OF LOMA LINDA  
SAN BERNARDINO COUNTY, CALIFORNIA  
SUBMITTED OCTOBER 26, 2004  
PUBLIC HEARING NOVEMBER 9, 2004

ENGINEER'S REPORT  
CITY OF LOMA LINDA  
ANNEXATION NO. 64 TO  
LANDSCAPE MAINTENANCE  
DISTRICT NO. 1  
TRACT NO. 16382

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction.....	1
II. Plans and Specifications .....	2
III. Assessment.....	4
IV. Estimated Costs of the Improvements .....	5
V. Assessment Diagram .....	7
VI. Method of Assessment .....	9
VII. Certifications.....	11

Appendices

A. Assessment Roll	
--------------------	--

# ENGINEER'S REPORT AFFIDAVIT

CITY OF LOMA LINDA ANNEXATION NO. 64 TO  
LANDSCAPE MAINTENANCE  
DISTRICT NO. 1  
TRACT NO. 16382

City of Loma Linda  
County of San Bernardino, State of California

This Report describes the Annexation therein including the improvements, budgets, parcels and assessments to be levied for fiscal year 2004/2005, as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the San Bernardino Assessor's maps for a detailed description of the lines and dimensions of parcels within the Annexation. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

MuniFinancial  
Assessment Engineer  
On Behalf of the City of Loma Linda

By: \_\_\_\_\_  
Bryan Miller, Project Manager

By: \_\_\_\_\_  
Richard Kopecky, Engineer of Work  
R.C.E. # 16742

## I. INTRODUCTION

### BACKGROUND

At the written request of the owner, the City Council has heretofore elected to annex the permanent landscaped areas within the development located north of Newport Road; 1,665 feet east of Mountain View Avenue; 300 feet west of Bryn Mawr Avenue, known as Tract No. 16382, into Landscape Maintenance District No. 1 as Annexation No. 64.

This Engineer's Report is prepared in compliance with the requirements of Article 4, Chapter 1, of the Landscaping and Lighting Act of 1972 (The Act), which is Part 2, Division 15 of the California Streets and Highways Code.

Since the Passage of Proposition 218, Right to Vote on Taxes Act, which added Articles XIII C and XIII D to the California Constitution, new procedures must be followed to levy assessments under the Landscaping and Lighting Act.

Proposition 218 requires that all assessments be supported by a detailed Engineer's Report prepared by a registered professional engineer. The report includes the information required by law for the annexation. This annexation is into an existing assessment district.

The Act provides for the annexation into an existing district for the express purpose of installing, maintaining, and servicing landscaping improvements. The costs associated with the installation, maintenance, and servicing of the improvements may be assessed against those properties which are specially benefited by the installation, maintenance, and servicing. A City may annex territory into an assessment district after complying with the requirements of the Act, and the provisions in Proposition 218.

The City initiates proceedings for the annexation by passing a Council Bill (Resolution), which proposes the annexation under the Act. This Resolution also describes the improvements, describes the location of the proposed annexation, and finally orders an engineer, who is a registered professional engineer, certified by the State of California, to prepare and file a detailed report.

The report prepared by the engineer must include plans and specifications for the improvements. The report must also include an estimate of the costs of the improvements, a diagram, i.e., map of the annexation showing the boundary of the annexation, and an assessment of the estimated costs of the improvements against the parcels or lots which benefit from the improvements. Once the report is completed it is presented to the City Council for its review and approval as presented, or it may be modified and approved.

After the report is approved, the City Council may adopt a Resolution of Intention, which declares its intent to annex territory into an assessment district, describes the improvements, and refers to the report for details of the annexation. The Resolution of Intention also sets a time and place for a hearing on the proposed annexation into the district and the levy of assessments.

In accordance with Proposition 218, the property owners of the assessed parcels, through the use of Assessment Ballots, must approve any new or increased assessments no later than 45 days prior to the public hearing. Approval will be determined by weighing the ballots according to the proportional obligation of the affected property.



At the time of the public hearing, Assessment Ballots will be tallied and this information will be combined with the Engineer's Report for the proposed annexation for approval prior to submitting assessments to the County Auditor/Controller.

Annexation No. 64, Tract No. 16382, is a new residential development. The Annexation is located on Newport Road; 1,665 feet east of Mountain View Avenue; 300 feet west of Bryn Mawr Avenue. The legal description is as follows: portion of north  $\frac{1}{2}$  of the northeast  $\frac{1}{4}$ , of the northwest  $\frac{1}{4}$ , of Section 31, Township 1 south, Range 3 west, San Bernardino Base and Meridian. Annexation 64 is a new annexation with its own distinct assessment rate. Other landscape annexations within the City have their own distinct designation and assessment rate.

## II. PLANS AND SPECIFICATIONS

Improvements include landscaping and irrigation improvements installed within parkways along Newport Avenue and common areas (lettered parcels on the recorded tract map) and the maintenance and servicing of said improvements.

The proposed improvements for the proposed annexation may be generally described as follows:

The operation, maintenance, and servicing of ornamental structures, landscaping, including trees, shrubs, grass, and other ornamental vegetation, and appurtenant facilities, including irrigation systems located in public places within the boundaries of the annexation. Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of the ornamental structures, landscaping and appurtenant facilities, including repair, removal, or replacement of all or part of any of the ornamental structures, landscaping or appurtenant facilities; providing for the life, growth, health, and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste; and the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti. Servicing means the furnishing of electricity for the lighting and operation of the ornamental structures, landscaping, and appurtenant facilities, and water for the irrigation and control of the landscaping and the maintenance of any of the ornamental structures, landscaping, and appurtenant facilities.

The proposed improvements within the Annexation (lettered parcels and medians) are to be jointly maintained by the City and an established Homeowners Association (HOA). If for any reason the HOA is unable to maintain the landscaping to meet City standards within their portion of the Annexation, the City has the authority to provide the maintenance and assess the property owners for the additional effort.

Improvements to be maintained by the City on an annual basis are as follows:

Parkways along Newport Avenue:	18,795 square feet
<b>Total City maintained</b>	<b>18,795 square feet</b>

Improvements to be maintained by a HOA on an annual basis are as follows:

Parcel B (walks, parks)	44,256.96 square feet
Parcel C (plantings)	4,443.12 square feet
Parcel D (plantings)	5,575.68 square feet
Parcel E (plantings)	3,441.24 square feet
Parcel F (plantings)	4,312.44 square feet
Parcel G (plantings)	1,132.56 square feet
Parcel H (plantings)	1,132.56 square feet
<b>Total HOA maintained</b>	<b>64,294.56 square feet</b>

Plans and specifications for the improvements are voluminous and are not bound in this report but by this reference are incorporated and made a part of this report. The plans and specifications are on file in the office of the City Clerk and the City Engineer where they are available for public inspection.

The Annexation Boundaries are the boundaries of Tract No. 16382.

### III. ASSESSMENT

All assessed lots or parcels of real property within the annexation are listed on the Assessment Roll, which is on file in the office of the City Clerk and the City Engineer, and is hereby made a part of this report by reference. The Assessment Roll states the net amount to be assessed upon assessable lands within the annexation for fiscal year 2004/2005, shows the fiscal year 2004/2005 assessment upon each lot and parcel within the annexation and describes each assessable lot or parcel of land within the annexation. These lots and parcels are more particularly described on the County Assessment Roll, which is on file in the office of the San Bernardino County Assessor and by reference is made a part of this report.

Commencing with fiscal year 2005/2006, the amount of the assessment for the annexation is proposed to increase each year, based upon the All Urban Consumers Price Index, for the Los Angeles, Orange, Riverside County Area ("CPI"), as determined by the United States Department of Labor, Bureau of Labor Statistics, or its successor. The Engineer shall compute the percentage difference between the CPI for March of each year and the CPI for the previous March, and shall then adjust the existing assessment by an amount not to exceed such percentage for the following fiscal year. Should the Bureau of Labor Statistics revise such index or discontinue the preparation of such index, the Engineer shall use the revised index or a comparable system as approved by the City Council for determining fluctuations in the cost of living.

### IV. ESTIMATED COSTS OF THE IMPROVEMENTS

The Act provides that the estimated costs of the improvements shall include the total cost of the improvements for the entire fiscal year 2004/2005, including incidental expenses, which may include operating reserves.

The Act also provides that the amount of any surplus, deficit, or contribution be included in the estimated cost of improvements. The net amount to be assessed on the lots or parcels within the annexation is the total cost of installation, maintenance, and servicing with adjustments either positive or negative for reserves, surpluses, deficits, and/or contributions.

The following page contains the estimated costs of the improvements.

CITY OF LOMA LINDA  
ENGINEER'S REPORT  
ANNEXATION NO 64 TO  
LANDSCAPE MAINTENANCE  
DISTRICT NO. 1  
TRACT NO. 16382

ANNEXATION NO.: 64  
DISTRICT NO.: 1  
ASSESSABLE LOTS OR PARCELS: 50 proposed units  
TYPE OF LAND USE: Residential  
LANDSCAPED AREA: Approximately 83,100 square feet

<u>BUDGET ITEM</u>	<u>TOTAL</u>
<u>Direct Costs</u>	
Maintenance Costs	\$ 22,490
Utilities	\$ 1,881
Repairs	\$ 1,882
<b>Total Direct Costs</b>	<b>\$ 26,253</b>
<u>Administrative Costs</u>	
Personnel	\$ 15,445
Professional Services	\$ 10,326
Insurance	\$ 10,326
Deficit	\$ 0
<b>Total Administrative Costs</b>	<b>\$ 36,097</b>
<u>FY2004/2005 Assessment</u>	
Total Direct/Administrative Costs	\$ 62,350
Total Number of Parcels	50
Annual Assessment (City portion) Per Parcel	\$ 282
Annual Assessment (HOA portion) Per Parcel	\$ 965
<b>Total Assessment Per Parcel</b>	<b>\$ 1,247</b>

Beginning with fiscal year 2004/2005, the established HOA will be responsible for all landscaping within the interior of the development including all lettered parcels not located on Newport Avenue unless otherwise directed by the City. The amount of the total direct and administrative costs associated with the HOA portion of the maintenance is \$48,250 (\$965 per parcel). Therefore, the

assessment rate per parcel for fiscal year 2004/2005 will be credited the amount of the HOA portion (\$965 per parcel) resulting in an assessment of \$282 per parcel.

## **V. ASSESSMENT DIAGRAM**

The boundary maps/diagrams for the proposed annexation by this reference are incorporated and made a part of this report. The boundary maps/diagrams are on file in the office of the City Clerk and the City Engineer where it is available for public inspection. The following map page is for general location only and is not to be considered the official boundary map on file with the City Clerk.

INSERT SAMPLE ASSESSMENT DIAGRAM

## **VI. METHOD OF ASSESSMENT**

### **BACKGROUND**

The Landscaping and Lighting Act of 1972 provides that assessments may be apportioned among all assessable lots or parcels of land within an assessment district/annexation in proportion to the estimated benefits to be received by each lot or parcel from the improvements. In addition, Proposition 218 requires that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel. The Proposition provides that only special benefits are assessable, and the City must separate the general benefits from the special benefits conferred on a parcel. A special benefit is a particular and distinct benefit over and above general benefits conferred on the public at large, including real property within the district. The general enhancement of property value does not constitute a special benefit.

### **SPECIAL BENEFIT**

Each and every parcel within the proposed annexation receives a particular and distinct benefit from the improvements over and above general benefits conferred by the improvements.

First, all of the improvements were conditions of approval for the creation or development of the parcels. In order to create or develop the parcels, the City required the original developer to install and guarantee the maintenance of landscaping, ornamental structures, and appurtenant facilities to serve the parcels. Therefore, each and every parcel within the proposed annexation could not have been developed in the absence of the installation and promised maintenance of these facilities.

In addition, the improvements continue to confer a particular and distinct special benefit upon parcels within the annexation because of the nature of the improvements. The proper maintenance of landscaping and appurtenant facilities specially benefit parcels within the annexation by moderating temperatures, providing oxygenation, attenuating noise from adjacent streets and controlling dust for those properties in close proximity to the landscaping, thereby enhancing the environmental quality of the parcels and making them more desirable. The spraying and treating of landscaping for disease reduces the likelihood of insect infestation and other diseases spreading to landscaping located throughout the properties within the annexation. The proper maintenance of the landscaping, ornamental structures, and appurtenant facilities reduces property-related crimes (especially vandalism) against properties in the annexation through the abatement of graffiti and the screening of properties within the annexation from arterial streets. Finally, the proper maintenance of landscaping and ornamental structures improves the attractiveness of the properties within the annexation and provides a positive visual experience each and every time a trip is made to or from the property. All of the above-mentioned contributes to a specific enhancement of the property values of each of the parcels within the annexation.

## GENERAL BENEFIT

In addition to the special benefits received by the parcels within the proposed annexation, there are incidental general benefits conferred by the proposed improvements.

The proper maintenance of landscaping and appurtenant facilities within the annexation will not only control dust from blowing onto properties within the annexation, but will also control dust from blowing onto properties outside of the annexation. Also, the control of erosion will not only protect properties within the annexation, but will also reduce runoff into the City's storm drain system. The proper maintenance of landscaped areas not only facilitates proper drainage of properties within the annexation, but also reduces the potential for flooding damage to properties on the downward slope from the annexation. The spraying and treating of landscaping within the annexation for disease reduces the likelihood of insect infestation and other diseases spreading to landscaping located throughout other properties within the City. Finally, the proper maintenance of landscaping and ornamental structures provides a positive visual experience to persons passing by the annexation. All of the above-mentioned constitutes incidental general benefits conferred by the improvements.

The total benefits are thus a combination of the special benefits to the parcels within the annexation and the general benefits to the public at large and to adjacent property owners. The portion of the total landscape maintenance costs, which are associated with general benefits, will not be assessed to the parcels in the annexation, but will be paid from other City Funds.

Because the landscaping is located immediately adjacent to properties within the proposed annexation, and is maintained solely for the benefit of the properties within the proposed annexation, any benefit received by properties outside of the proposed annexation is merely incidental. It is estimated that the general benefit portion of the benefit received from the improvements is less than one (1) percent of the total benefit.

## VII. CERTIFICATIONS

### REPORT APPROVAL

Approval by the City Council of the City of Loma Linda on the \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Pamela Byrnes-O'Camb, City Clerk  
City of Loma Linda



## **APPENDIX A ASSESSMENT ROLL**

The Assessment Roll for the annexation is voluminous and is not bound in this report but by reference is incorporated and made a part of this report. The Assessment Roll is on file in the office of the City Clerk and the City Engineer, where it is available for public inspection.

Reference is made to the San Bernardino County Assessment Roll for a description of the lots or parcels in the annexation.

<b>APN</b>	<b>ANNEX No.</b>	<b>TOTAL ANNEX ASSMT</b>	<b>PER PARCEL AMOUNT</b>
0293-011-04	64	\$62,350	\$1,247

Until such time as the above-mentioned parcels subdivide, the existing parcels will be assessed equal amounts of the assessment.

Once the parcels subdivide, the total assessment will be spread over the resulting 50 parcels at a rate of \$1,247 per parcel.

Beginning with fiscal year 2004/2005, the established HOA will be responsible for all landscaping within the interior of the development including all lettered parcels and Newport Avenue, unless directed by the City. The amount of the total direct and administrative costs associated with the HOA portion of the maintenance is \$48,250 (\$965 per parcel). Therefore, the assessment rate per parcel for fiscal year 2004/2005 will be credited the amount of the HOA portion (\$965 per parcel) resulting in an assessment of \$282 per parcel.